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DISTRICT COURT

CLARK COUNTY, NEVADA

OFELIA MATEO FELARCA, an individual,

Plaintiff,

Case No.:
Dept. No.:

vs.

PARALLON ENTERPRISES, LLC d/b/a
PARALLON BUSINESS PERFORMANCE
GROUP, a Foreign Limited-Liability
Company.

COMPLAINT

Defendant:

Plaintiff, Ofelia Mateo Felarca (hereinafter “Plaintiff”), by and through counsel, Cogburn Law, hereby complains against Defendant as follows:

I. PRELIMINARY STATEMENT

20 1. This is an action for damages brought by an individual consumer for Defendant's
21 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (hereinafter
22 "FDCPA") and Nevada's adoption of the FDCPA pursuant to NRS 649.370, which prohibits debt
23 collectors from engaging in abusive, deceptive, and unfair practices.

II. PARTIES

25 || 2. Plaintiff is a natural person residing in Clark County, Nevada.

1 3. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(c).
2 4. Upon information and belief, Parallon Enterprises, LLC d/b/a Parallon Business
3 Performance Group (hereinafter “Parallon”) is a Collection Agency engaged in the business of
4 collecting debts by use of the mails and telephone, and regularly attempts to collect debts alleged
5 to be due another.

6 5. Upon information and belief, Parallon is a foreign entity licensed in the State of
7 Tennessee and doing business in Nevada.

8 6. Upon information and belief, Parallon is not registered with the State of Nevada as
9 a collection agency or as a foreign collection agency.

10 7. Parallon is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6) trying
11 to collect a “debt” as defined by 15 U.S.C. § 1692a(5).

12 **III. GENERAL ALLEGATIONS**

13 8. Plaintiff underwent treatment for injuries sustained in a motor vehicle accident on
14 or about December 13, 2018.

15 9. The above referenced treatment for the injuries occurred at Mountain View
16 Hospital located in Clark County, Nevada.

17 10. Prior to undergoing medical treatment, Plaintiff provided Mountain View Hospital
18 with her valid health insurance.

19 11. Mountain View Hospital retained the services of Parallon to seek collection on the
20 full amount of the subject medical lien.

21 12. Mountain View Hospital failed to bill Plaintiff’s health insurance prior to asserting
22 its rights under the medical lien.

23 13. On or about May 15, 2019, Parallon faxed a notice to Plaintiff and her counsel
24 indicating that \$84,185.50 was demanded.

1 14. The \$84,185.50 was the only amount listed on the Parallon notice, wherein the
2 fields for health insurance payments were expressly left blank by Parallon after review of
3 Plaintiff's account.

4 15. The May 15, 2019, Parallon notice expressly states, "[if] other sources of payment
5 exist, we ask that such information be provided so that we may accurately calculate and assign
6 responsibility for payment."

7 16. Parallon was already in possession of Plaintiff's health insurance information as
8 was taken during the initial treatment of Plaintiff a year prior at Mountain View Hospital.

9 17. Despite being placed on notice of Plaintiff's health insurance, Parallon seeks
10 collection of the full alleged medical charges in excess of \$80,000, wherein Plaintiff's health
11 insurance was not billed prior to seeking collection of the full amount of charges.

12 18. Parallon, on behalf of Mountain View Hospital, has and continues to collect an
13 unlawful amount in violation and breach of Nevada's adoption of the FDCPA.

14 **IV. CLAIMS FOR RELIEF**

15 **FIRST CLAIM FOR RELIEF**

16 **(Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692)**

17 19. Plaintiff realleges and incorporates all preceding paragraphs above as if fully set
18 out herein.

19 20. Nevada adopted the FDCPA pursuant to NRS 649.370, making violations of the
20 FDCPA also violations of Nevada law.

21 21. Defendant was negligent and/or willful, rendering it liable for falsely mispresenting
22 the character, amount and nature of the debt in violation of 1692e(a)(2)(A).

23 22. Defendant was negligent and/or willful, rendering it liable for attempting to collect
24 an improper balance due, fees, interests and/or expenses not authorized or permitted by law, and
25 in violation of 1692f(1).

1 23. The basis of that conduct is where Parallon, as a debt collector, sought collection
2 of a hospital lien amount in violation of NRS 108.645(4) and NRS 449A.156.

3 24. Collectively, NRS 108.645(4) and NRS 449A.159 prohibit medical providers from
4 perfecting a medical treatment services lien without first billing a patient's medical insurance.

5 25. Plaintiff had medical insurance on the date of treatment.

6 26. Plaintiff's medical insurance was not billed by Mountain View Hospital prior to
7 Parallon attempting debt collection by demanding full payment of the total medical charges
8 without consideration for what Plaintiff's health insurance would have satisfied out of the charges.

9 27. Defendant's conduct was negligent or willful or both, rendering it liable for failing
10 to cease collection of an alleged debt, and not providing proper verification of the debt to the prior
11 to initiating a lawsuit, in violation of 1692g(b).

12 28. As a result of the foregoing violations, Defendant is liable for actual damages,
13 including general damages and special damages in an amount to be proven at trial, but not less
14 than up to \$1,000 per violation, pursuant to 1692k(a)(1).

15 29. As a result of the foregoing violations, Defendant is liable for actual damages,
16 including general damages and special damages in an amount to be proven at trial, but not less
17 than up to \$1,000 per violation, pursuant to 1692k(a)(2)(a).

18 30. As a result of the foregoing violations, Defendant is liable for costs and reasonable
19 attorney fees pursuant to 1692k(a)(3).

20 31. Plaintiff hereby prays for actual damages under the FDCPA, and for statutory
21 damages as set forth above for each and every violation of the Fair Debt Collection Practices Act
22 proven at the trial of this case, and reasonable attorney fees and costs thereunder.

23 32. As a result, Plaintiff has experienced pain and suffering associated with physical
24 injuries caused by the collision which has required medical treatment. These general damages are
25 in excess of \$15,000.00.

1 33. Plaintiff has been forced to retain the services of an attorney to represent her in this
2 action and is, therefore, entitled to recover reasonable attorney fees and costs of litigation.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment)

5 34. Plaintiff realleges and incorporates all preceding paragraphs above as if fully set
6 out herein.

7 35. A justiciable controversy has arisen and now exists between the parties concerning
8 their respective rights and duties related to the application of NRS 108.645(4) and NRS 449A.159
9 as voiding the Moutain View Hospital medical lien.

36. Specifically, NRS 108.645(4) and NRS 449A.159 prohibit medical providers from
perfecting a medical treatment services lien without first billing a patient's medical insurance.

12 37. Plaintiff asserts the Mountain View Medical lien is void pursuant to NRS
13 108.645(4) and NRS 449A.159 for failure to bill her health insurance prior to asserting a medical
14 lien for the full alleged value of the medical treatment without consideration for what offsets would
15 have been paid by Plaintiff's health insurance.

16 38. The issue is ripe for judicial determination as Parallon seeks collection on the full
17 alleged medical services amount in excess of \$80,000.

18 39. Plaintiff asks this Court to determine the rights of the parties.

19 40. Plaintiff has been forced to retain the services of an attorney to represent her in this
20 action and is, therefore, entitled to recover reasonable attorney fees and costs of litigation.

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1 V. **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
3 Defendant, on all counts, for the following:

- 4 1. Declaratory judgment that Defendant's conduct violated the FDCPA;
- 5 2. Actual damages;
- 6 3. Statutory damages;
- 7 4. Punitive damages;
- 8 5. Costs and reasonable attorney fees; and
- 9 6. For such other and further relief as the Court may deem just and proper.

10 Dated this 4th day of January, 2021.

11 COGBURN LAW

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